



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Oscar Vision Systems, Inc.
File: B-232289
Date: November 7, 1988

DIGEST

Protest that awardee's bid is nonresponsive is denied where the awardee has unequivocally offered to provide the required video system in conformity with all material terms and conditions of the invitation for bids. Only where a bidder provides information with its bid that reduces, limits, or modifies a solicitation requirement may the bid be rejected as nonresponsive.

DECISION

Oscar Vision Systems, Inc. protests the award of a contract to CTL Communications under invitation for bids (IFB) No. M00027-88-C-0052, issued by the United States Marine Corps for video system sets. Oscar Vision contends that CTL's bid is not responsive to the IFB.

We deny the protest.

The IFB was for 820 video system sets with an option for an additional 1,220 sets.^{1/} Bidders were informed that the Corps would make a single award to the low, responsive and responsible bidder and that bids would be evaluated by adding the total price for the option amount to the total price for the basic requirement.

^{1/} The video system sets were the subject of an earlier invitation for bids issued by the Corps. None of the 20 bids received in response to that invitation were responsive, and the solicitation was canceled. The Corps relaxed certain specification requirements prior to issuing the current IFB.

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The statement of work described the video system as a single portable unit, comprised of a VHS video player integrated with a 10 to 13 inch color monitor and speaker and fitted into a single, soft-style carrying case. The IFB specified that the player/monitor must be of industrial quality and must not have recording or television tuner capabilities and that the monitor was required to have a minimum resolution of 300 horizontal television lines.

The IFB also required bidders to submit with their bids one sample in the carrying case. Bidders were informed that the bid samples would be examined for compliance with the capabilities and characteristics set forth in the statement of work.

The Corps received 25 bids, of which the 4 lowest bids were:

	<u>Unit Price</u>
Vidicomp Distributors, Inc.	\$445
Infomart	468
CTL	475
Oscar Vision	599

The bids of Vidicomp and Infomart were rejected as non-responsive. The Corps, however, found CTL's bid to be responsive and awarded a contract to CTL on July 18, 1988. Oscar Vision contends that CTL's bid is nonresponsive. After denial of its agency level protest, Oscar Vision filed this protest with our Office.

Oscar Vision argues that CTL's offered video system, a Magnin MVR 9500, is a commercial unit with recording and television tuner capabilities. The protester further argues that CTL's offered system will not meet the requirement of minimum monitor resolution of 300 horizontal lines. In support of its arguments, the protester submitted a manufacturer's brochure and an independent testing laboratory report.

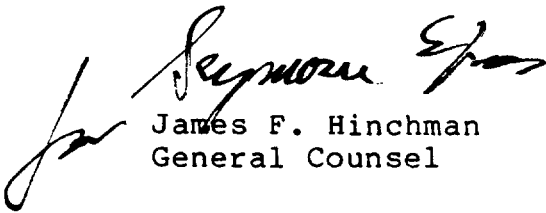
The Corps states that CTL's bid sample was a modified Magnin MVR 9500 which the agency examined and found to meet the IFB requirements. The Corps also reviewed the modified manufacturer's specification sheet which CTL had furnished with its bid as unsolicited descriptive data. This document indicates that CTL's modified Magnin MVR 9500 does not have recording or television tuner capabilities and has minimum monitor resolution of 300 lines.

Bid responsiveness concerns whether a bidder has unequivocally promised to provide supplies in conformity with all material terms and conditions of a solicitation. Only where a bidder provides information with its bid that reduces, limits, or modifies a solicitation requirement may the bid be rejected as nonresponsive. Ibex Ltd., B-230218, Mar. 11, 1988, 88-1 CPD ¶ 257.

We have no basis on which to disagree with the Corps that CTL's bid was responsive to the IFB. CTL offered to provide the required video system in conformity with all the material terms and conditions of the solicitation. Oscar Vision argues that the commercially available Magnin MVR 9500, as represented by the manufacturer's specification sheet and the independent laboratory test report, cannot meet the solicitation requirements. However, as noted above, CTL's bid is based on providing a "modified" system, which the Corps found met the IFB requirements. It is this modified Magnin MVR 9500 which CTL is obligated by its contract to supply.

The protester also argues that CTL's modified Magnin MVR 9500 only satisfies the IFB requirements by disconnecting the television tuner or recorder capabilities. Oscar Vision states that before bid opening on the prior, canceled solicitation, it was informed that a video system which disconnected these functions would not be acceptable. Initially, we note that this oral advice occurred in connection with a different solicitation than the IFB which is the subject of this protest. In any event, the IFB contained the standard "Explanation to Prospective Bidders" clause, Federal Acquisition Regulation § 52.214-6 (FAC 84-25), which informed bidders that they were required to request explanations or interpretations of the solicitation in writing and warned that oral explanations would not be binding. Since the IFB does not prohibit a bidder from offering a video system with the television tuner and recorder functions disconnected, we find that Oscar Vision relied on the prior oral advice at its own risk. See A.R.S. Construction Co., B-228476, Jan. 27, 1988, 88-1 CPD ¶ 82.

The protest is denied.


James F. Hinchman
General Counsel